

112TH CONGRESS
1ST SESSION

H. R. 2597

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2011

Mr. PALLONE (for himself, Mrs. MALONEY, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American-Owned Prop-
5 erty in Occupied Cyprus Claims Act”.

1 **SEC. 2. INTERNATIONAL CLAIMS SETTLEMENT ACT.**

2 The International Claims Settlement Act of 1949 (22
3 U.S.C. 1621 et seq.) is amended by adding at the end
4 the following new title:

5 **“TITLE VIII—CLAIMS AGAINST**
6 **TURKEY**

7 **“SEC. 801. PURPOSE.**

8 “The purpose of this title is to provide for the deter-
9 mination of the validity and amounts of claims against
10 Turkey that arise out of the continued exclusion of nation-
11 als of the United States from property such nationals own
12 that is located in those portions of the territory of Cyprus
13 that Turkey occupies. This title shall not be construed as
14 authorizing or as any intention to authorize an appropria-
15 tion by the United States for the purpose of paying such
16 claims.

17 **“SEC. 802. DEFINITIONS.**

18 “As used in this title:

19 “(1) CLAIMANT.—The term ‘claimant’ means
20 any national of the United States who files a claim
21 under this title.

22 “(2) CLAIMS FUND.—The term ‘Claims Fund’
23 means the claims fund described in section 808(a).

24 “(3) COMMISSION.—The term ‘Commission’
25 means the Foreign Claims Settlement Commission
26 of the United States.

1 “(4) CYPRUS.—The term ‘Cyprus’ means the
2 Republic of Cyprus.

3 “(5) NATIONAL OF THE UNITED STATES.—The
4 term ‘national of the United States’ means—

5 “(A) a natural person who is either a cit-
6 izen of the United States or an alien lawfully
7 admitted for permanent residence to the United
8 States;

9 “(B) a natural person who acquired title to
10 property in Cyprus through intestate or testate
11 succession under the laws of the United States
12 or of any State, the District of Columbia, the
13 Commonwealth of Puerto Rico, or any territory
14 or possession of the United States from or
15 through a natural person described in subpara-
16 graph (A); or

17 “(C) a corporation or other legal entity
18 that is organized under the laws of the United
19 States or of any State, the District of Colum-
20 bia, the Commonwealth of Puerto Rico, or any
21 territory or possession of the United States, if
22 one or more natural persons described in sub-
23 paragraph (A) own, directly or indirectly, 50
24 percent or more of the outstanding capital stock

1 or other beneficial interest of such corporation
2 or entity.

3 “(6) PROPERTY.—The term ‘property’ means
4 any real property or any right or interest in real
5 property, including any leasehold interest, held
6 under the laws of Cyprus and located in any portion
7 of the territory of Cyprus that is occupied by Tur-
8 key.

9 “(7) TURKEY.—The term ‘Turkey’ means—

10 “(A) the Republic of Turkey;

11 “(B) any political subdivision, agency, or
12 instrumentality of the Republic of Turkey, in-
13 cluding the Turkish Armed Forces;

14 “(C) any agent of the Government of Tur-
15 key, or any unincorporated association that
16 purports to discharge any function of a nation-
17 state under the auspices of the Republic of Tur-
18 key, including the unincorporated association
19 known as the ‘Turkish Republic of Northern
20 Cyprus’;

21 “(D) any organization that purports to be
22 a political subdivision, agency, or instrumen-
23 tality of the unincorporated association known
24 as the ‘Turkish Republic of Northern Cyprus’;
25 and

1 “(E) any natural person or legal entity
2 that purports to claim or hold any title or right
3 to property described in paragraph (6) under
4 the alleged authority of any entity described in
5 of subparagraph (A), (B), (C), or (D).

6 **“SEC. 803. COMMENCEMENT OF NEGOTIATIONS BY THE**
7 **SECRETARY OF STATE.**

8 “(a) IN GENERAL.—The President is urged to au-
9 thorize the Secretary of State to commence negotiations
10 with Turkey and to continue such negotiations until an
11 agreement is reached with respect to the payment by Tur-
12 key of claims certified under section 806.

13 “(b) REQUIREMENT TO RECEIVE CLAIMS.—The
14 Commission shall receive claims under section 804, deter-
15 mine the validity of such claims, and make awards under
16 section 804 as of the effective date of the American-Owned
17 Property in Occupied Cyprus Claims Act without regard
18 to whether or not—

19 “(1) the President authorizes the Secretary of
20 State to commence the negotiations to which sub-
21 section (a) refers; and

22 “(2) if the President does authorize the Sec-
23 retary of State to commence such negotiations, the
24 Secretary of State commences such negotiations.

1 **“SEC. 804. RECEIPT AND DETERMINATION OF CLAIMS.**

2 “(a) DETERMINATION OF CLAIMS.—

3 “(1) IN GENERAL.—Subject to paragraph (2),
4 the Commission shall receive and determine in ac-
5 cordance with applicable substantive law, including
6 international law, the validity and amounts of claims
7 by nationals of the United States against Turkey
8 arising on or after July 20, 1974, for the fair rental
9 market value of the use and continued occupation by
10 Turkey of property located in the territory of Cyprus
11 that—

12 “(A) is owned by such nationals under the
13 laws of Cyprus; and

14 “(B) at the time the exclusion from or oc-
15 cupation of the property began, was owned
16 wholly or partially, directly or indirectly, by na-
17 tionals of the United States under the laws of
18 Cyprus.

19 “(2) LIMITATION.—The Commission shall re-
20 duce the dollar amount of the fair rental market
21 value of each claim to the extent that possession of
22 the property has been restored to the claimant or
23 the claimant has received actual and adequate com-
24 pensation for the use and occupation of the property
25 from any source on account of the same loss or
26 losses for which the claim is filed.

1 “(b) OWNERSHIP RIGHTS RETAINED.—No claimant
2 shall be required nor be deemed, either directly or indi-
3 rectly, to transfer, waive, or otherwise forfeit any right of
4 ownership in or to the property that claimant owns under
5 the laws of Cyprus as a condition to or as the result of
6 filing a claim, having the claim determined, or accepting
7 an award based on the claim.

8 “(c) SUBMISSION OF CLAIMS.—

9 “(1) REQUIREMENT TO ESTABLISH TIME PE-
10 RIOD.—Not later than 60 calendar days after the
11 date of the enactment of an appropriations Act that
12 makes available funds for the payment of adminis-
13 trative expenses incurred by the Commission in car-
14 rying out this title, the Commission shall establish a
15 period during which claimants may submit claims
16 under this title.

17 “(2) PUBLICATION.—The Commission shall
18 publish in the Federal Register the beginning and
19 ending dates of the time period to which paragraph
20 (1) refers.

21 “(3) TIME PERIOD.—The time period to which
22 paragraph (1) refers may not exceed 24 consecutive
23 calendar months beginning with the first month fol-
24 lowing the month in which the notice is published
25 under paragraph (2).

1 **“SEC. 805. OWNERSHIP OF CLAIMS.**

2 “A claim may be favorably considered under section
3 804—

4 “(1) only if the property right on which it is
5 based was owned, wholly or partially, directly or in-
6 directly, by a national of the United States under
7 the laws of Cyprus on the date on which the exclu-
8 sion from or occupation of the property began; and

9 “(2) only to the extent that the claim has been
10 held or acquired by one or more nationals of the
11 United States continuously from that date until the
12 date on which the claim is filed with the Commis-
13 sion.

14 **“SEC. 806. CERTIFICATION; ASSIGNED CLAIMS.**

15 “(a) CERTIFICATION OF CLAIMS.—

16 “(1) CERTIFICATION TO THE CLAIMANT.—The
17 Commission shall certify to each claimant who files
18 a claim under this title—

19 “(A) the dollar amount determined by the
20 Commission to be the loss suffered by the
21 claimant that is covered by this title; and

22 “(B) if, on the date on which the Commis-
23 sion makes the certification under subpara-
24 graph (A), Turkey is excluding the claimant
25 from the claimant’s property, a mathematical
26 basis determined by the Commission for calcu-

1 lating the loss suffered by the claimant for the
2 continued use and occupation of the property by
3 Turkey after the date of the award.

4 “(2) CERTIFICATION TO THE SECRETARY OF
5 STATE.—The Commission shall certify to the Sec-
6 retary of State—

7 “(A) the dollar amount of each claim cer-
8 tified under paragraph (1)(A);

9 “(B) any mathematical basis certified
10 under paragraph (1)(B) in connection with that
11 claim; and

12 “(C) a statement of the evidence upon
13 which the Commission relied and the reasoning
14 employed by the Commission in determining the
15 dollar amount described in subparagraph (A)
16 and the mathematical basis described in sub-
17 paragraph (B).

18 “(b) ASSIGNED CLAIMS.—In any case in which a
19 claim under this title is assigned by purchase before the
20 Commission determines the amount due on that claim, the
21 amount so determined may not exceed the amount of ac-
22 tual consideration paid by the last such assignee.

23 **“SEC. 807. CONSOLIDATED AWARDS.**

24 “With respect to any claim under section 804 that,
25 at the time of the award, is vested in persons other than

1 the person by whom the original loss was sustained, the
2 Commission shall issue a consolidated award in favor of
3 all claimants then entitled to the award. The award shall
4 indicate the respective interests of such claimants in the
5 award. All such claimants shall participate, in proportion
6 to their indicated interests, in any payments that may be
7 made under this title in all respects as if the award had
8 been in favor of a single person.

9 **“SEC. 808. CLAIMS FUND.**

10 “(a) **AUTHORITY.**—The Secretary of the Treasury
11 may establish in the Treasury of the United States a
12 Claims Fund for the payment of unsatisfied claims of na-
13 tionals of the United States against Turkey, as authorized
14 by this title.

15 “(b) **CONTRIBUTIONS TO CLAIMS FUND.**—The
16 Claims Fund shall consist of such sums as may be paid
17 to or realized by the United States pursuant to the terms
18 of any agreement settling those claims described in section
19 804 that may be concluded between the Governments of
20 the United States and Turkey.

21 “(c) **DEDUCTION OF ADMINISTRATIVE EXPENSES.**—
22 The Secretary of the Treasury shall deduct from any
23 amounts covered into the Claims Fund a dollar amount
24 equal to 5 percent thereof as reimbursement to the Gov-
25 ernment of the United States for expenses incurred by the

1 Commission and by the Department of the Treasury in
2 the administration of this title. The amounts so deducted
3 shall be covered into the Treasury as miscellaneous re-
4 ceipts.

5 **“SEC. 809. AWARD PAYMENT PROCEDURES.**

6 “(a) CERTIFICATION OF AWARDS TO SECRETARY OF
7 THE TREASURY.—The Commission shall certify to the
8 Secretary of the Treasury the dollar amount of each award
9 made pursuant to section 804.

10 “(b) PAYMENT OF AWARDS.—

11 “(1) PRINCIPAL AMOUNTS.—Upon certification
12 of each award made under section 804, the Sec-
13 retary of the Treasury shall, out of the sums covered
14 into the Claims Fund, make payments on account of
15 such awards as follows, and in the following order
16 of priority:

17 “(A) Payment in the amount of \$25,000
18 or the principal amount of the award, whichever
19 is less.

20 “(B) Thereafter, payments from time to
21 time, in ratable proportions, on account of the
22 unpaid balance of the principal amounts of all
23 awards according to the proportions that the
24 unpaid balance of such awards bear to the total

1 amount in the Claims Fund available for dis-
2 tribution at the time such payments are made.

3 “(2) SUBSEQUENT PAYMENTS.—After payment
4 has been made in full of the principal amounts of all
5 awards pursuant to paragraph (1), pro rata pay-
6 ments may be made on account of any interest that
7 may be allowed on such awards.

8 “(c) REGULATIONS.—Payments or applications for
9 payments under subsection (b) shall be made in accord-
10 ance with such regulations as the Secretary of the Treas-
11 ury may prescribe.

12 **“SEC. 810. SETTLEMENT PERIOD.**

13 “The Commission shall complete its affairs in connec-
14 tion with the settlement of claims pursuant to this title
15 not later than the end of the 3-year period beginning on
16 the final date for the filing of claims as provided in section
17 804(c).

18 **“SEC. 811. TRANSFER OF RECORDS.**

19 “The Secretary of State, the Secretary of the Treas-
20 ury, and the Secretary of Defense shall transfer or other-
21 wise make available to the Commission such records and
22 documents relating to claims authorized by this title as
23 may be required by the Commission in carrying out its
24 functions under this title.

1 **“SEC. 812. FEES FOR SERVICES.**

2 “(a) LIMITATION ON FEES.—

3 “(1) LIMITATION.—Remuneration on account
4 of services rendered on behalf of any claimant in
5 connection with any claim filed with the Commission
6 under this title may not exceed 10 percent of the
7 total dollar amount paid pursuant to an award cer-
8 tified under the provisions of this title on account of
9 such claim.

10 “(2) NOTIFICATION OF AGREEMENTS.—Any
11 agreement contrary to the limitation set forth in
12 paragraph (1) is unlawful and void.

13 “(b) PENALTY FOR VIOLATION.—Any person who de-
14 mands or receives any remuneration that exceeds the max-
15 imum remuneration set forth in subsection (a) shall be
16 fined under title 18, United States Code, imprisoned for
17 not more than 12 months, or both.

18 **“SEC. 813. APPLICATION OF OTHER PROVISIONS.**

19 “(a) IN GENERAL.—

20 “(1) PROVISIONS.—To the extent that they are
21 not inconsistent with the provisions of the title, the
22 following provisions of title I of this Act shall apply
23 to this title:

24 “(A) Subsections (b), (c), (d), (e) and (h)
25 of section 4.

1 “(B) Subsections (c), (d), (e) and (f) of
2 section 7.

3 “(2) REFERENCE.—Any reference to ‘this title’
4 in the provisions described in subparagraph (A) or
5 (B) of paragraph (1) is a reference to such provi-
6 sions and to this title.

7 “(b) ADMINISTRATIVE PROCEDURE.—Except as oth-
8 erwise set forth in this title and in those provisions of title
9 I set forth in subparagraph (A) or (B) of subsection
10 (a)(1), the Commission shall comply with the provisions
11 of subchapter II of chapter 5, and the provisions of chap-
12 ter 7, of title 5, United States Code.

13 **“SEC. 814. AUTHORIZATION OF APPROPRIATIONS.**

14 “‘There are authorized to be appropriated for any fis-
15 cal year beginning on or after October 1, 2010, such sums
16 as may be necessary to enable the Commission and the
17 Department of the Treasury to pay their respective admin-
18 istrative expenses incurred in carrying out their functions
19 under this title. Amounts appropriated under this section
20 may remain available until expended.’”.

21 **SEC. 3. JURISDICTION OF UNITED STATES DISTRICT**
22 **COURTS.**

23 (a) IN GENERAL.—Chapter 85 of title 28, United
24 States Code, is amended by adding at the end the fol-
25 lowing new section:

1 **“§ 1370. Civil actions by nationals of the United**
2 **States who own real property in Cyprus**
3 **against private persons**

4 “(a) JURISDICTION.—The district courts shall have
5 original jurisdiction of any civil action that is brought—

6 “(1) by a national of the United States—

7 “(A) who holds title to any real property
8 under the laws of Cyprus that is located in that
9 portion of the territory of Cyprus that is occu-
10 pied by Turkey; and

11 “(B) who has been excluded from that
12 property by reason of such occupation;

13 “(2) against any private person who for any
14 purpose and in any way uses, occupies, or benefits
15 from that property at any time during the period of
16 such exclusion; and

17 “(3) for the fair rental value of the property
18 during the period of such use, occupation, or benefit.

19 “(b) DEFINITIONS.—As used in this section—

20 “(1) the term ‘national of the United States’
21 means—

22 “(A) a natural person who is either a cit-
23 izen of the United States or an alien lawfully
24 admitted for permanent residence to the United
25 States;

1 “(B) a natural person who acquired title to
2 property in Cyprus through intestate or testate
3 succession under the laws of the United States
4 or of any State, the District of Columbia, the
5 Commonwealth of Puerto Rico, or any territory
6 or possession of the United States from or
7 through a natural person described in subpara-
8 graph (A); or

9 “(C) a corporation or other legal entity
10 that is organized under the laws of the United
11 States or of any State, the District of Colum-
12 bia, the Commonwealth of Puerto Rico, or any
13 territory or possession of the United States, if
14 one or more natural persons described in sub-
15 paragraph (A) own, directly or indirectly, 50
16 percent or more of the outstanding capital stock
17 or other beneficial interest of such corporation
18 or entity;

19 “(2) the term ‘property’ means any real prop-
20 erty or any right or interest in any real property, in-
21 cluding any leasehold interest, to which a national of
22 the United States holds title under the laws of Cy-
23 prus;

24 “(3) the term ‘Turkey’ means—

25 “(A) the Republic of Turkey;

1 “(B) any political subdivision, agency, or
2 instrumentality of the Republic of Turkey, in-
3 cluding the Turkish Armed Forces;

4 “(C) any agent of or unincorporated asso-
5 ciation that purports to discharge any function
6 of a nation-state under the auspices of the Re-
7 public of Turkey, including the unincorporated
8 association known as the ‘Turkish Republic of
9 Northern Cyprus’; and

10 “(D) any organization that purports to be
11 a political subdivision, agency, or instrumen-
12 tality of the unincorporated association known
13 as the ‘Turkish Republic of Northern Cyprus’;

14 “(4) the term ‘Cyprus’ means the Republic of
15 Cyprus; and

16 “(5) the term ‘private person’ means—

17 “(A) any natural person who—

18 “(i) at any time on or after July 20,
19 1974, uses, occupies, or benefits from
20 property in Cyprus, if such use, occupa-
21 tion, or benefit was enabled by Turkey or
22 any person or entity, other than a national
23 of the United States who held lawful title
24 to that property under the laws of Cyprus
25 as of July 20, 1974; and

1 “(ii) holds such title when any civil
2 action under this section is brought by rea-
3 son of such use, occupation, or benefit; and

4 “(B) any corporation or other legal entity
5 that—

6 “(i) is organized under the laws of the
7 United States or of any State, the District
8 of Columbia, the Commonwealth of Puerto
9 Rico, or any territory or possession of the
10 United States or under the laws of any for-
11 eign state; and

12 “(ii)(I) at any time on or after July
13 20, 1974, uses, occupies, or benefits from
14 property in Cyprus, if such use, occupa-
15 tion, or benefit was enabled by Turkey or
16 any person or entity, other than a national
17 of the United States who held title to that
18 property under the laws of Cyprus as of
19 July 20, 1974; and

20 “(II) holds such title when any civil
21 action under this section is brought by rea-
22 son of such use, occupation, or benefit.

23 “(c) SPECIAL RULES.—For purposes of this sec-
24 tion—

1 “(1) process is served if service is accomplished
2 in any manner set forth in this title;

3 “(2) the district court shall not consider the
4 doctrine of forum non conveniens in any civil action
5 asserted under this section and shall refuse to hear
6 any motion or request by any person or party that
7 the civil action be dismissed on the grounds of forum
8 non conveniens;

9 “(3) in determining whether the person or
10 party asserting the civil action has lawful title, the
11 district court shall apply only the laws of Cyprus in
12 making that determination; and

13 “(4) in determining the amount of any award
14 in any civil action, the district court shall consider
15 only evidence of the fair rental market value of the
16 property for each calendar year for which the plain-
17 tiff has been excluded from its property, as that
18 value would have been calculated in Cyprus if the
19 plaintiff had not been excluded from the property.

20 “(d) LIMITATION ON ACTIONS.—Any civil action
21 against a private person under this section may be brought
22 at any time before the end of the period of 36 consecutive
23 calendar months that begins after the last day of the
24 month in which the private person ceases to use, occupy,

1 or benefit from the property that is the subject of the ac-
 2 tion. This subsection applies in lieu of section 1658.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
 4 tions for chapter 85 of title 28, United States Code, is
 5 amended by adding at the end the following new item:

“1370. Civil actions by nationals of the United States who own real property
 in Cyprus against private persons.”.

6 (c) APPLICABILITY.—The amendments made by this
 7 section shall apply to any cause of action arising before,
 8 on, or after the date of the enactment of this Act.

9 **SEC. 4. VENUE.**

10 (a) IN GENERAL.—Chapter 87 of title 28, United
 11 States Code, is amended by adding at the end the fol-
 12 lowing new section:

13 **“§ 1414. Venue of civil actions against private persons**
 14 **brought by nationals of the United States**
 15 **who own real property in Cyprus**

16 “Notwithstanding any other provision of this chapter,
 17 a civil action under section 1370 may be brought only in
 18 the District Court for the District of Columbia or the Dis-
 19 trict Court for the Southern District of New York.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
 21 tions for chapter 87 of title 28, United States Code, is
 22 amended by adding at the end the following new item:

“1414. Venue of civil actions against private persons brought by nationals of
 the United States who own real property in Cyprus.”.

1 **SEC. 5. EFFECTIVE DATE.**

2 Subject to section 3(c), this Act and the amendments
3 made by this Act shall take effect on the date of the enact-
4 ment of this Act.

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